

AMENDMENTS TO THE DRAWINGS:

Please amend Figs. 1 and 2 to label the same as PRIOR ART,  
and amend Fig. 1 to delete numerals 20a and 20g.

Enclosed are two REPLACEMENT SHEETS and two ANNOTATED SHEETS  
SHOWING CHANGES.

### R E M A R K S

Claim 1 is now in this application, and is presented for the Examiner's consideration.

#### Objection to Abstract

The Abstract was objected to on the basis that the phrase "Disclosed in" at line 1 should be deleted.

This phrase has been deleted, and the Abstract has been further amended to reduce the word count to less than 150, as required.

Accordingly, it is respectfully submitted that the objection to the Abstract has been overcome.

#### Objection to Drawings and Specification

The drawings were objected to because Figs. 1 and 2 should be labeled PRIOR ART, and the disclosure was objected to because reference numerals 20a and 20g shown in Fig. 1 are not present in the specification.

In this regard, Figs. 1 and 2 have been labeled PRIOR ART, and numerals 20a and 20g have been deleted from Fig. 1.

Enclosed are two REPLACEMENT SHEETS and two ANNOTATED SHEETS SHOWING CHANGES.

#### Prior Art Rejections

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,010,265 to Bouix.

However, with Bouix, the flaps 12, when in their unbiased condition, have their edges in contact with each other, as shown in Figs. 4A and 4B. This is similar to the prior art of Fig. 2 of the present application. It is only when the brush is inserted through the opening 14, do the side edges of the flaps 12 separate from each other. It was stated in the Office Action that the plurality of vent holes are formed between the L-shaped walls when the walls are separated by the applicator.

Thus, Bouix suffers from the same deficiencies as the prior art of Figs. 1 and 2 of the present application, which are discussed at page 5, line 16 - page 6, line 7 of the present application. Specifically, with Bouix, as with the prior art of Figs. 1 and 2 of the present application, air cannot circulate efficiently so that the cosmetic solution in the vessel is difficult to uniformly adhere to the brush of the cap, due to the air present in the cosmetic vessel. Moreover, when the brush of the cap placed into the vessel is removed from the vessel, the inner pressure of the vessel is instantaneously reduced, whereby a larger amount of the cosmetic solution may adhere to not only the brush of the cap but also the shaft of the cap. In this case, the amount of the cosmetic solution cannot be uniformly controlled through the incision of the plug packing which is formed in the cross shape. Further, upon using the above cosmetic vessel for longer periods, the incision of the plug packing cannot function desirably, due to the solidified cosmetic solution adhering thereto.

However, in the present invention, in the unbiased condition, that is, when the applicator brush is not inserted through the opening 230, there are still vent holes 220 provided between the L-shaped walls 210.

Although Bouix does provide other openings 16 in Figs. 2 and 3, these openings are provided to allow excess scraped mascara to return to the container, and more importantly, openings 16 are not provided between the flaps, but rather, are provided in the flaps themselves.

Therefore, the distinction between the present invention and Bouix is that, when plug packing 200 is inserted into the container, there are L-shaped walls 210 and vent openings 220 provided between side edges of the L-shaped walls in the unbiased condition when the brush is not inserted through the opening 230.

In order to emphasize this distinction, claim 1 has been amended to recite in the language that the vent openings are formed between side edges of the L-shaped walls when the plug packing is fitted into the upper portion of the vessel body, the vent openings being present in an unbiased condition of the L-shaped walls when the brush is not inserted therethrough.

Accordingly, it is respectfully submitted that the rejection of claim 1 under 35 U.S.C. §102(b) has been overcome.

Claim 1 was further rejected under 35 U.S.C. §103(a) as being obvious from U.S. Patent No. 5,697,720 to Lhuisset in view of Bouix.

The remarks previously made above in regard to Bouix are incorporated herein.

In Lhuisset, there are small gaps 14 between side edges 13 of flaps 4 (see column 3, lines 21-24). However, the patent further states that, when sleeve 1 is inserted into the neck 17 of the container, the confronting edges 13 of the flaps 4 will be substantially in contact owing to the slight radial compression of the wall 5 of the sleeve 1 (column 3, lines 56-60). Therefore, in the assembled condition of sleeve 1 in neck 17, there are no gaps or vent holes between the flaps 4. This would also therefore be similar to the prior art of Fig. 2 of the present application.

However, in the Office Action, the gaps 14 are not cited to satisfy the condition of the vent holes. Rather, the gaps or slots 7 in the side wall of the sleeve are cited for this purpose. This, however, is different, since the gaps or slots 7 are not provided between side edges of the flaps 4.

Further, such an arrangement is not as efficient as with the present invention. This is because slots 7 of Lhuisset are narrow slots that extend upwardly against the side wall of the upper portion of the vessel body. As a result, any air flow through slots 7 is very small, as compared with the air flow through the vent openings 220 between L-shaped walls 210.

Therefore, this arrangement would suffer from the same deficiencies as the prior art of Fig. 2 in that air cannot circulate efficiently so that the cosmetic solution in the vessel is difficult to uniformly adhere to the brush of the cap, due to the air present in the cosmetic vessel.

Further, as with the prior art of Fig. 2 of the present application, when the brush of the cap placed into the vessel is removed from the vessel, the inner pressure of the vessel is instantaneously reduced, whereby a larger amount of the cosmetic solution may adhere to not only the brush of the cap but also the shaft of the cap. In this case, the amount of the cosmetic solution cannot be uniformly controlled through the incision of the plug packing which is formed in the cross shape. Further, upon using the above cosmetic vessel for longer periods, the incision of the plug packing cannot function desirably, due to the solidified cosmetic solution adhering thereto.

Therefore, as discussed above in regard to Bouix, there is an essential distinction that, when plug packing 200 is inserted into the container, there are L-shaped walls 210 and vent openings 220 provided between side edges of the L-shaped walls in the unbiased condition when the brush is not inserted through the opening 230. Lhuisset fails to disclose or suggest this feature.

As discussed above in regard to Bouix, in order to emphasize this distinction, claim 1 has been amended to recite is the language that the vent openings are formed between side edges of the L-shaped walls when the plug packing is fitted into the upper

portion of the vessel body, the vent openings being present in an unbiased condition of the L-shaped walls when the brush is not inserted therethrough.

Since neither Bouix nor Lhuisset disclose or even remotely suggest these features, it is submitted that a combination of these references would also not disclose or suggest these features.

Accordingly, it is respectfully submitted that the rejection of claim 1 under 35 U.S.C. §103(a) has been overcome.


If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

In the event that this Paper is late filed, and the necessary petition for extension of time is not filed concurrently herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this Paper, to Account No. 07-1524.

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1524.

In view of the foregoing amendments and remarks, it is respectfully submitted that Claim 1 is allowable, and early and favorable consideration thereof is solicited.

Respectfully submitted,

  
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Enclosures:  
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